



General Assembly

February Session, 2014

Raised Bill No. 5589

LCO No. 2782



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING CUSTODIAL INTERROGATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-1o of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) For the purposes of this section:

4 (1) "Custody" means the circumstance when (A) a person has been
5 placed under formal arrest, or (B) there is a restraint on a person's
6 freedom of movement of the degree associated with a formal arrest
7 and a reasonable person, in view of all the circumstances, would have
8 believed that he or she was not free to leave;

9 (2) "Interrogation" means questioning initiated by a law
10 enforcement official or any words or actions on the part of a law
11 enforcement official, other than those normally attendant to arrest and
12 custody, that such official should know are reasonably likely to elicit
13 an incriminating response from the person;

14 (3) "Custodial interrogation" means any interrogation of a person

15 while such person is in custody;

16 (4) "Place of detention" means a police station or barracks,
17 courthouse, correctional facility, community correctional center or
18 detention facility; and

19 (5) "Electronic recording" means an audiovisual recording made by
20 use of an electronic or digital audiovisual device.

21 (b) An oral, written or sign language statement of a person under
22 investigation for or accused of a capital felony or a class A or B felony
23 made as a result of a custodial interrogation at a place of detention
24 shall be presumed to be inadmissible as evidence against the person in
25 any criminal proceeding unless: (1) An electronic recording is made of
26 the custodial interrogation, and (2) such recording is substantially
27 accurate and not intentionally altered.

28 (c) Every electronic recording required under this section shall be
29 preserved until such time as the person's conviction for any offense
30 relating to the statement is final and all direct and habeas corpus
31 appeals are exhausted or the prosecution is barred by law.

32 (d) If the court finds by a preponderance of the evidence that the
33 person was subjected to a custodial interrogation in violation of
34 subsection (b) or (c) of this section, [then] any statements made by the
35 person during or following that nonrecorded custodial interrogation,
36 even if otherwise in compliance with this section, are presumed to be
37 inadmissible in any criminal proceeding against the person except for
38 the purposes of impeachment.

39 (e) (1) An oral, written or sign language statement of a person under
40 investigation for or accused of a crime made as a result of a custodial
41 interrogation at a place of detention shall be presumed to be
42 inadmissible as evidence against the person in any criminal proceeding
43 if: (A) The person conducting the investigation presented the person
44 under investigation with documents, data or other information that the

45 person conducting the investigation knew to be false at the time the
46 documents, data or other information was presented, or (B) the person
47 conducting the investigation knowingly made misrepresentations to
48 the person under investigation regarding documents, data or other
49 information about the investigation or the consequences of the person's
50 statements with respect to the investigation.

51 (2) If the court finds by a preponderance of the evidence that the
52 person under investigation was subjected to a custodial interrogation
53 in violation of subdivision (1) of this subsection, any statements made
54 by the person during or following such custodial interrogation, even if
55 otherwise in compliance with this section, are presumed to be
56 inadmissible in any criminal proceeding against the person except for
57 the purposes of impeachment.

58 [(e)] (f) Nothing in this section precludes the admission of:

59 (1) A statement made by the person in open court at his or her trial
60 or at a preliminary hearing;

61 (2) A statement made during a custodial interrogation that was not
62 recorded as required by this section because electronic recording was
63 not feasible;

64 (3) A voluntary statement, whether or not the result of a custodial
65 interrogation, that has a bearing on the credibility of the person as a
66 witness;

67 (4) A spontaneous statement that is not made in response to a
68 question;

69 (5) A statement made after questioning that is routinely asked
70 during the processing of the arrest of the person;

71 (6) A statement made during a custodial interrogation by a person
72 who requests, prior to making the statement, to respond to the
73 interrogator's questions only if an electronic recording is not made of

74 the statement, provided an electronic recording is made of the
75 statement by the person agreeing to respond to the interrogator's
76 question only if a recording is not made of the statement;

77 (7) A statement made during a custodial interrogation that is
78 conducted out-of-state; and

79 (8) Any other statement that may be admissible under law.

80 [(f)] (g) The state shall have the burden of proving, by a
81 preponderance of the evidence, that one of the exceptions specified in
82 subsection [(e)] (f) of this section is applicable.

83 [(g)] (h) Nothing in this section precludes the admission of a
84 statement, otherwise inadmissible under this section, that is used only
85 for impeachment and not as substantive evidence.

86 [(h)] (i) The presumption of inadmissibility of a statement made by a
87 person at a custodial interrogation at a place of detention may be
88 overcome by a preponderance of the evidence that the statement was
89 voluntarily given and is reliable, based on the totality of the
90 circumstances.

91 [(i)] (j) Any electronic recording of any statement made by a person
92 at a custodial interrogation that is made by any law enforcement
93 agency under this section shall be confidential and not subject to
94 disclosure under the Freedom of Information Act, as defined in section
95 1-200, and the information shall not be transmitted to any person
96 except as needed to comply with this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	54-1o

Statement of Purpose:

To improve the reliability of confessions by providing that statements made by a person during a custodial interrogation at a place of

detention are presumed inadmissible if obtained pursuant to misrepresentations made by the person conducting the investigation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]